

CITY OF MUSKEGON
PLANNING COMMISSION
SPECIAL MEETING
MINUTES

January 22, 2008

Vice Chairman B. Turnquist called the meeting to order at 4:02 p.m. and roll was taken.

MEMBERS PRESENT: B. Turnquist, L. Spataro, B. Mazade, T. Harryman, B. Larson,
J. Aslakson, S. Warmington, B. Smith

MEMBERS ABSENT: T. Michalski, excused

STAFF PRESENT: L. Anguilm, D. Leafers

OTHERS PRESENT: J. Schrier, Parmenter O'Toole, 601 Terrace; E. Starck, Rhoades
McKee, for Celebration Community Church; G. Stamm, Celebration
Community Church; C. Brady for Nauty's Bar; L. Johnson, 1660
Montague; R. Ribbens, 2330 Miner; M. Campbell, 20009 Timber Trail,
Ada; M. Estlick, 1308 W. Sherman; D. Weikel for the LST; R. Hilt,
1627 Jefferson

NEW BUSINESS/PUBLIC HEARINGS

S. Warmington arrived at 4:05 p.m.

Hearing: Case 2008-04: Request for a Special Land Use Permit, per Section 1301 (#7) of Article XIII, B-4, General Business Districts, of the Zoning Ordinance, to allow a church at 1260 W. Sherman Boulevard, by Mike Housekamp, Celebration Community Church. This case was originally heard at the December 2007 Planning Commission meeting, where the request had been denied. The applicant is asking for reconsideration of the request for a Special Use Permit (SUP). L. Anguilm presented the staff report. The building at 1260 W. Sherman Blvd. is presently vacant, but has been used as a car dealership in the past. The applicant wishes to use the building for a church. The properties to the north are zoned R-1, Single Family Residential, and the parcels to the east and west are zoned B-4. To the south is the city of Roosevelt Park. The site plan submitted with the application is adequate. The parking lot is paved, but would need to be striped. The grassy areas along Sherman will be landscaped to soften the appearance of the large parking area. No new outdoor lighting has been proposed, but if any new lights are requested, the site plan would need to be amended and additional lights would be required to be 100% cut-off style. The following are conditions required for approval of a church in a B-4 zone, and are met by the present building: a) the site shall be located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare, b) the principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet, c) buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of buildings that exceeds the maximum height allowed. The Department of Public Works had the following condition of approval: contact Dave Smith, City DPW at 724-6989, regarding placement and installation of proposed new fire hydrant. The Engineering Department had the following comments: a) accepted if proposed

modifications are to the existing building only, b) no changes in paved surface, thus no revisions to drainage facilities, c) no changes to drive approaches, d) we need side walks; this is a Planning issue. The Fire Department has the following conditions of approval: a) fire flow water supply calculations shall be conducted, b) fire hydrants and water supply requirements shall comply with International Fire Code Section 508 and Appendix B, and c) post indicating valve shall be installed for suppression. Lewis Spyke, 1334 Beardsley, called to object to this request. Staff recommends approval of the request with the conditions listed in the staff report.

L. Spataro arrived at 4:06 p.m.

B. Larson requested that only new information be presented at the meeting, as board members were already aware of the information and concerns presented at the December meeting. B. Smith asked what the new information was. L. Anguilm stated that there was correspondence from E. Starck, the church's attorney, John Schrier, the City Attorney, and the Liquor Control Commission (LCC). J. Aslakson asked if the City Attorney had a chance to look over the correspondence. J. Schrier, City Attorney, stated that he had. He reviewed the information from the LCC regarding the effect on the liquor licenses of the neighboring businesses. He also referred board members to his correspondence regarding the Religious Land Use issue. J. Aslakson stated that there seemed to be conflicting information on the effect the church would have on the neighboring bar's (Nauty's) ability to expand. J. Schrier stated that the LCC could consider the church's input if there was an expansion request by Nauty's. L. Spataro stated that the zoning ordinance stated that the Planning Commission may permit special uses, and asked if that gave them discretion on issuing a Special Use Permit. J. Schrier stated that it did, but there were Federal regulations regarding religious land use that required a compelling governmental interest if the Commission were to deny the SUP request. B. Smith asked if the adjacent bar owners objected to the request. L. Spataro stated that they did.

E. Starck was an attorney representing the church. He asked that the letters from him addressed to the Planning Commission dated 12/18/07 and 1/16/08 be included in the record. He discussed the Religious Land Use Act, the City's zoning ordinance, and the LCC regulations as they related to this request. He also addressed the concerns raised at the December meeting. He stated that the church would have no impact on the neighboring establishments' liquor licenses, that the request was consistent with the B-4 zoning district, and that it was consistent with the City's Master Plan, since they were not requesting a zoning change. He claimed that the reasons for denial were due to the applicant being a church, which was prohibited by the Religious Land Use Act. B. Larson stated that he believed there were compelling reasons for denying the request. Sherman Blvd. was an established commercial corridor, which the Master Plan recommended for that area. S. Warmington asked if E. Starck was representing the church or the property owner. E. Starck stated that he had been hired by the church. J. Aslakson asked if the church owned the property. E. Starck stated that they did. B. Larson asked if the church had purchased the property after the original request for a SUP was denied. E. Starck stated that if the SUP was denied, they could still use the building for other uses, such as administrative offices. G. Strand, church pastor, stated that the church wanted to be a good neighbor. They would bring more people into the community, which would be good for other area businesses. He stated that they were willing to go on record as having no objection to the adjacent bar owners expansion request, if there was one. C. Brady was the attorney representing Nauty's Bar, adjacent to the subject property. She stated that Nauty's had been undergoing interior remodeling since October 2007 and there were further plans to expand outdoors, so this was not just a speculative issue. She stated that with a church located next door, LCC action regarding any requests by Nauty's becomes very discretionary. In addition, Ms. Sieradski, the bar owner, would have to obtain LCC approval for even minor changes, and that would cause a hardship. She stated that any changes to a liquor license were treated as a new license application, and the additional requirements

due to having a church in close proximity would be a burden. L. Johnson was a church member who lived and worked in the City of Muskegon. She was in favor of the request. R. Ribbens stated that he was also in favor. M. Campbell was the previous owner of the property and was in favor of the request. He stated that he owned three businesses in Muskegon, and was familiar with the area. He stated that the church would be the highest and best use for this building as well as for the community, as it was close to a residential area and would be unsuitable for an industrial use. He discussed the history of the site and the results of a market study that had been done. M. Estlick owned the Landmark Bar and lived above it. She was opposed to the request. She felt strongly that having a church in such close proximity would be detrimental to her business and property value, especially if they were to try to sell the business.

A motion to close the public hearing was made by L. Spataro, supported by B. Larson and unanimously approved.

B. Larson asked if another vote was required. J. Schrier stated that if no decision was made, the previous action would stand. J. Aslakson stated that he was uncomfortable with the impact on the adjoining property owners. B. Smith stated that she wasn't present for the last meeting, but was not aware of any bar having gone out of business due to a church moving in. L. Spataro stated that he had reviewed the attorneys' correspondence and was comfortable that the Commission was not discriminating against the applicant because it was a church. This was a commercial property on a major corridor. There was a new development going in just down the street, so there was development interest in the area. He did not think that a church at that location would be in the best interest of the City or the neighboring establishments, who had been good corporate citizens for over 20 years. Those property owners had attended both meetings, stating that this would harm their business, and part of the City's responsibility was to protect its citizens. B. Larson concurred. He stated that he had not heard any new information that would change his vote. B. Turnquist stated that vacant buildings gave a negative impression of the City, and he believed this would have a positive impact by bringing more people into the area.

A motion that the request for Special Land Use Permit, per section 1301 (#7) of Article XIII of the Zoning Ordinance, to allow for a church in a B-4 zoning district at 1260 W. Sherman Boulevard, by Mike Housekamp, Celebration Community church, be approved, based on compliance with the City's Master Land Use Plan and conditions set forth in Section 2332 of the City of Muskegon Zoning Ordinance, with the conditions that 1) the parking lot be striped, 2) the condition listed by the DPW in #6 of the staff report be met, 3) all conditions of the Fire Department listed in #8 of the staff report be met, and 4) the Special Land Use Permit affidavit shall be recorded with the register of deeds prior to occupying the building, was made by B. Smith and supported by T. Harryman. The motion failed, with J. Aslakson, T. Harryman, B. Mazade, B. Larson, and L. Spataro voting nay.

OLD BUSINESS

Hearing; Case 2008-02: Request for a Special Land Use Permit, per section 1901 (#6) of Article XIX of the Zoning Ordinance to allow for a museum ship at the Mart Dock, 560 Mart Street, by Raymond J. Hilt, SS Milwaukee Clipper Preservation, Inc. L. Anguilm requested that, because of time getting short due to the 5:30 City Commission meeting, this case be tabled until the February meeting. This would also give staff an opportunity to try and work with the Mart Dock property owner on acceptable language in the letter they had requested from the City.

A motion to table this case until the February Planning Commission meeting was made by J. Aslakson, supported by B. Larson, and approved, with L. Spataro voting nay.

OTHER

Letter from M. McKee of the Mart Dock – L. Spataro stated that he had concerns about the letter written by M. McKee regarding the upcoming City Commission ruling on an ordinance change to allow museums as a special use in a WM, Waterfront Marine district. Mr. McKee was threatening to close the LST if the change was approved. B. Mazade was hopeful that staff could work on the language for the letter requested by Mr. McKee and resolve these issues.

There being no further business, the meeting was adjourned at 5:30 p.m.

dml